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Gerard Remkes

2565/132

7919

26646

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09/03/2010

KENYON & KENYON LLP  
ONE BROADWAY  
NEW YORK, NY 10004

EXAMINER

BASS, DIRK R

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

09/03/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### **ADVISORY ACTION**

Applicant argues that the examiner has not disclosed a means for setting a dialysing fluid flow rate which performs the same function specified in the claim. In response the examiner reminds applicant that the function of the means for setting a dialysing fluid flow rate is to set a dialysing fluid flow rate. Language further modifying the "means for setting a dialysing fluid flow rate" is considered by the examiner to be intended use language, which must result in a **structural difference** between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art.

Furthermore, claim 23 requires that the at least one receiving unit is either empty or contains a pre-set residual volume of the at least one dialysing fluid concentrate. The examiner considers the limitation of a "pre-set residual volume" to be met by Connell, since the device of Connell implicitly discloses a receiving unit containing a pre-set residual volume after the programmed dialysing process.

### **CONCLUSION**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIRK BASS whose telephone number is (571) 270-7370. The examiner can normally be reached on Mon - Fri (9am-4pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vickie Kim can be reached on (571) 272-0579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1797

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Krishnan S Menon/  
Primary Examiner, Art Unit 1797

/DRB/  
Dirk R. Bass